

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA)
v.)
DEBORAH LYNN STEVENSON,)
Defendant.)
Case No. 1:03CR00053
OPINION
By: James P. Jones
United States District Judge

Nancy C. Dickenson, Assistant Federal Public Defender, Abingdon, for Defendant.

The defendant has filed a Motion to Vacate, Set Aside, or Correct Sentence, pursuant to 28 U.S.C. § 2255, seeking sentencing relief under *Johnson v. United States*, 135 S. Ct. 2551 (2015). Upon review of the motion and court records, I find that the § 2255 motion must be dismissed as successive.

This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria. *See* § 2255(h). Court records indicate that Stevenson previously filed a § 2255 motion concerning this same conviction and sentence, which the court denied. *See Stevenson v. United*

States, No. 7:05CV00013 (W.D. Va. Apr. 19, 2006) (Turk, J.).¹ Because Stevenson offers no indication that she has obtained certification from the court of appeals to file a second or successive § 2255 motion, I do not have jurisdiction to address it and must dismiss it without prejudice.

A separate Final Order will be entered herewith.

DATED: May 6, 2016

/s/ James P. Jones
United States District Judge

¹ Records indicate that United States District Judge James C. Turk referred Stevenson's § 2255 action to United States Magistrate Judge B. Waugh Crigler, who conducted an evidentiary hearing on Stevenson's claim that her attorney had failed to file a notice of appeal after she instructed him to do so. Judge Crigler issued a Report and Recommendation, making proposed findings of fact and concluding that counsel did not provide ineffective assistance with regard to Stevenson's right to appeal. *See Stevenson v. United States*, No. 7:05CV00013, 2006 WL 733935 (W.D. Va. Feb. 22, 2006). Thereafter, Judge Turk adopted the Report and denied § 2255 relief as to the appeal claim. He also concluded that Stevenson had entered a valid guilty plea, pursuant to a written Plea Agreement, by which she waived her right to file a § 2255 action, but not her right to appeal. *See also United States v. Stevenson*, No. 1:03CR00053, 2011 WL 739433 (W.D. Va. Feb. 24, 2011) (construing motion brought under 28 U.S.C. § 3582 as § 2255 motion and dismissing it as successive under § 2255(h)).